

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF DELAWARE**

IN THE MATTER OF THE JOINT APPLICATION                   )  
OF MCI WORLDCOM COMMUNICATIONS, INC., AND            )  
MCIMETRO ACCESS TRANSMISSION SERVICES, LLC,        )  
TO AMEND THEIR INTERCONNECTION AGREEMENTS        )       PSC DOCKET NO. 04-113  
WITH VERIZON DELAWARE INC., TO INCLUDE            )  
ADDITIONAL TERMS TO BE ADOPTED UNDER THE        )  
"PICK AND CHOOSE" PROVISIONS OF 47 U.S.C.        )  
§ 252(i) (FILED MARCH 25, 2004)                    )

**ORDER NO. 6405**

This 4<sup>th</sup> day of May, 2004, the Commission determines and Orders the following:

1. On March 25, 2004, MCI WorldCom Communications, Inc. ("MCI World") and MCImetro Access Transmission Services, LLC ("MCImetro") filed a joint application which asks this Commission to "approve amendments" to each carrier's interconnection agreement with Verizon Delaware Inc. ("VZ-DE").<sup>1</sup> The "amendments" that the two MCI carriers desire for their own agreements would track Sections 3, 4, and 5 of the Network Elements Attachment (as well as applicable changes in Sections B.IV and B.VI through B.IX of Appendix A to the Pricing Attachment) contained in an interconnection agreement between Capital Telecommunications, Inc., d/b/a CTI, and VZ-DE.<sup>2</sup> According to the MCI carriers, they are entitled to incorporate the contractual terms

---

<sup>1</sup>In 1996, this Commission approved an interconnection agreement between MCI World and VZ-DE. See PSC Order No. 4332 (Oct. 18, 1996) (later amended). MCImetro previously adopted, as its own agreement, the interconnection agreement between AT&T Communications of Delaware, LLC, and VZ-DE. See PSC Dckt. No. 02-379 (agreement also later amended).

<sup>2</sup>See PSC Order No. 6154 (May 6, 2003) (approving CTI/VZ-DE agreement).

(related to loop transmission types, line sharing, and line splitting) from the CTI agreement into their own agreements under the "pick and choose" entitlement granted by the provisions of 47 U.S.C. § 252(i) and 47 C.F.R. § 51.809.<sup>3</sup>

2. The two MCI carriers allege that VZ-DE has not responded in a timely fashion to the two carriers' request to "pick" the CTI terms for their own agreements. MCI World and MCImetro thus request the Commission to expeditiously approve these amendments to their agreements under the authority of section 252(i).

3. This Commission's Guidelines for implementing the interconnection regime announced in 47 U.S.C. § 252 do not speak specifically to a process for implementing the "pick and choose" provisions. In particular, those Guidelines do not speak to a procedure to be followed when a carrier requests to incorporate particular terms in another approved agreement rather than adopt the entire contract with another carrier.

4. In order to move the MCI carriers' application forward and to help frame (and narrow) the issues, the Commission directs VZ-DE to file and serve a written response to the MCI carriers' application within thirty (30) days of the date of this Order. Such response shall set forth VZ-DE's position concerning the MCI carriers' application to incorporate the identified portions of the CTI

---

<sup>3</sup>See AT&T Corp. v. Iowa Utilities Bd., 525 U.S. 366, 395-96 (1999). The Commission notes that the Federal Communications Commission is currently considering whether it should change the scope of the "pick and choose" entitlement. See In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report and Order and Order on Remand and Further NPRM at ¶¶ 715-29, 18 FCC Rcd. 19020 (2003) (FCC 03-36).

agreement into the MCI carriers' agreements. If VZ-DE does not believe that either of the MCI carriers is entitled to amend its agreement as requested, VZ-DE shall include in its response all of VZ-DE's defenses to the MCI carriers' application. The response may focus on both agreements or may provide separate defenses to each agreement.

5. The two MCI carriers may (either jointly or individually) file and serve a reply to VZ-DE's response within fifteen (15) days of the service of VZ-DE's response.

6. This matter is now referred to Senior Hearing Examiner William F. O'Brien to construct a complete record in this matter and to provide a Report to the Commission with his recommendations on the MCI carriers' application. Hearing Examiner O'Brien shall endeavor to consider this application in a prompt manner.

Now, therefore, **IT IS ORDERED:**

1. That, as described in the Body of this Order, Verizon Delaware Inc. shall file and serve a response to the joint application filed by MCI WorldCom Communications, Inc., and MCImetro Access Transmission Services, LLC, on March 25, 2004. Verizon Delaware Inc. shall serve and file such response on or before thirty (30) days from the date of this Order.

2. That, as described in the Body of this Order, MCI WorldCom Communications, Inc., and MCImetro Access Transmission Services, LLC, may serve and file a reply to the response called for in Ordering paragraph 1. Such reply shall be filed and served on or before fifteen (15) days of the service of the response.

3. That, pursuant to 26 Del. C. §§ 502 and 703(4), Senior Hearing Examiner William F. O'Brien is designated as the Hearing Examiner for this matter. Hearing Examiner O'Brien shall conduct such proceedings as he deems appropriate to construct a complete record in this matter and shall thereafter submit a Report to the Commission with his proposed findings and recommendations. Hearing Examiner O'Brien shall endeavor to move forward in this matter to allow the Commission to enter a final decision in a timely fashion.

4. That MCI WorldCom Communications, Inc., MCImetro Access Transmission Services, LLC, and Verizon Delaware Inc., are hereby notified that they will be charged the costs of this proceeding (and any subsequent court proceedings) under the provisions of 26 Del. C. § 114.

5. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joshua M. Twilley  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

PSC Docket No. 04-113, Order No. 6405 Cont'd.

/s/ Jaymes B. Lester  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary